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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:)	
)	
PETITION TO AMEND)	Supreme Court No. R-14-0003
RULE 5(c)(2) and 6(e) OF THE)	
ARIZONA RULES OF CIVIL)	AMENDED PETITION
PROCEDURE)	
_____)	

Pursuant to Arizona Supreme Court Rule 28, David K. Byers, Administrative Director, respectfully files an amended petition in this matter that would amend Rules 5(c)(2) and 6(e) of the Arizona Rules of Civil Procedure, governing service after appearance and additional time after service, as proposed in the attached Appendix A. This amended petition is intended to replace the original petition filed on January 9, 2014.

The proposed amendment would authorize attorneys and unrepresented litigants to electronically serve pleadings and other documents on attorneys of record through electronic filing systems at the same time they e-file their documents with the court, thereby maximizing the efficiencies offered by electronic filing. During the last quarter of 2013, a significant number of pleadings have been reliably served

electronically using AZTurboCourt. Documents served through e-filing systems are immediately delivered to opposing counsel and a record of receipt is made. In this manner, the proposed rule change promises to advance the Supreme Court's strategic goal of providing access to swift, fair justice.

A party serving a document under the proposed amendment to Rule 5(c)(2) would not be required to confirm that the receiving party has already consented in writing to receive documents electronically, although this requirement would continue for parties who want to serve documents by direct e-mail.

As proposed in the amendment to Rule 6(e), a party served through an electronic service provider under the new 5(c)(2)(E) would also have the extra five days to respond currently provided by Rule 6(e) to a party served by mail or direct e-mail. Petitioner's original petition did not make service through an electronic service provider subject to Rule 6(e). Petitioner has reconsidered this aspect of his proposal in order to preserve the status quo and avoid confusion concerning computation of time to respond to a pleading or document and to maintain consistency between the state rule and Rule 6(d) of the Federal Rules of Civil Procedure.

In this amended petition, Petitioner has also removed the proposal to replace the word "paper" with the word "document" in Rule 5(c), because the word "paper" continues to appear in several related rules and statutes.

Petitioner requests that this amended petition be circulated for comment

pursuant to Supreme Court Rule 28.

Conclusion

Wherefore petitioner respectfully requests that the Supreme Court amend Rules 5(c)(2) and 6(e) as set forth in Appendix A.

RESPECTFULLY SUBMITTED this ____ day of _____, 2014

By /S/ _____
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Appendix A

Arizona Rules of Civil Procedure

Rule 5. Service and filing of pleadings and other papers

* * *

Rule 5(c) Service after appearance; service after judgment; how made.

(1) *Serving an Attorney.* If a party is represented by an attorney, service under this rule must be made on the attorney unless the court orders service on the party.

(2) *Service in General.* A paper is served under this rule by:

(A) handing it to the person;

(B) leaving it:

- (i) at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or
- (ii) if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;

(C) Mailing it via U.S. mail to the person's last known address--in which event service is complete upon mailing; ~~or~~

(D) Delivering the paper by any other means, including electronic means other than that described in subsection (E), if the recipient consents in writing to that method of service or if the court orders service in that manner--in which event service is complete upon transmission; or

(E) Transmitting the document through an electronic filing service provider approved by the Administrative Office of the Courts, if the recipient is an attorney of record in the action – in which event service is complete upon transmission.

(3) *Certificate of Service.* The date and manner of service shall be noted on the original of the paper served or in a separate certificate. If the precise manner in which service has actually been made is not so noted, it will be conclusively presumed that the paper was served by mail. This conclusive presumption shall only apply if service in some form has actually been made.

(4) *Service After Judgment.* After the time for appeal from a judgment has expired or a judgment has become final after appeal, the service of a motion, petition, complaint or other pleading required to be served and requesting modification, vacation or enforcement of that judgment, shall be served pursuant to Rules 4, 4.1 or 4.2, as applicable, of these rules as if serving a summons and complaint.

Rule 6. Time

* * *

Rule 6(e). Additional time after service under Rule 5(c)(2)(C), ~~or (D)~~, or (E)

Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served by a method authorized by Rule 5(c)(2)(C), ~~or (D)~~, or (E), five calendar days are added after the prescribed period would otherwise expire under Rule 6(a). This rule has no application to the distribution of notice of entry of judgment required by Rule 58(e).